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ABSTRACT

This publication is intended to provide school districts with a base from which they can develop their own written policies on grievance procedures. The guidelines consolidate various ideas contained in the grievance policies of school districts throughout Oregon and the United States. Much of the booklet consists of a model grievance policy for a school district. The model includes a detailed description of grievance procedures and a corresponding flow chart illustrating the progression of a complaint through the various levels of the grievance procedure. (JG)

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SUGGESTED PERSONNEL POLICY GUIDELINES FOR SCHOOL DISTRICTS

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GRIEVANCE PROCEDURE

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Suggested Guidelines
for
Written Grievance Procedures
for
Oregon School Districts

All school districts should have formal written policies on grievance procedures. This paper includes guidelines that will provide districts a base from which to work in developing these policies. These guidelines consolidate ideas contained in other policies from districts in the state and nation. Nothing in the grievance procedure can preclude the right of either party the judicial process.

Forms for implementing grievance procedures should be developed mutually by district administrators and representatives of employee associations.

Grievance policies should incude provision for the following:

1. DEFINITION OF TERMS. Terms such as: aggrieved, binding arbitration, grievance, party in interest, consultant, immediate supervisor, advisory arbitration, and working days should be clearly defined.

2. TIME PERIODS FOR EACH LEVEL. Time periods should be clearly indicated at each level of the procedure and should be considered maximum time to initiate and complete the action. The time limits specified should be extended by mutual agreement only.

3. RIGHT TO CONSULTANT. A "party in interest" should have the right to have a consultant or representative (a building grievance representative, a member of the grievance committee of the employee association, an attorney, etc.) at each level of the procedure.

4. RECOGNITION OF GRIEVANCE COMMITTEE. Existing employee associations should be recognized and their existing grievance structures be utilized whenever possible.

5. PROTECTION FROM REPRISAL. Freedom from reprisal against those initiating or participating in grievance procedures must be guaranteed.

6. FINANCIAL RESPONSIBILITY. Each party in interest should pay any and all costs incurred by said party except for arbitration costs which should be born equally by both parties.

7. WRITTEN RECORDS. Written records of formal activities between parties should be kept and copies made available to all parties involved.

8. SEQUENTIAL LEVELS OF GRIEVANCE. Every effort should be made to resolve differences through informal activities before formal procedures are used. Formal activities should probably start with the immediate supervisor, go through the superintendent, school board, and end with one of the three following alternatives: 1) binding arbitration, 2) court appeals, or 3) association action (e.g., sanctions).

9. TERMINATION OF GRIEVANCE. Procedures may terminate at any level if the complainant so indicates in writing or fails to pursue his complaint within the specified time limit.

SUGGESTED LEVELS FOR GRIEVANCE

LEVEL ONE

The aggrieved shall first discuss his grievance with his principal or immediate supervisor, either individually or through the school grievance representative, or accompanied by a representative with the objective of resolving the matter informally.

If the aggrieved is not satisfied with the disposition of his grievance, he may file a written grievance with his immediate supervisor. The immediate supervisor shall communicate his decision in writing to the aggrieved.

LEVEL TWO

If the aggrieved is not satisfied with the decision rendered by the immediate supervisor, he may appeal in writing to the superintendent's representative in the matter of grievances (which may be the case in larger school districts) or directly to the superintendent. (The superintendent's representative in the matter of grievances should be so designated by job description and should have the authority by board policy to render decisions.) A superintendent's representative's decision may be appealed directly to the superintendent.

Appeals to the superintendent shall be heard within a specified time limit following receipt of the appeal. Written notice of the time and place of hearing shall be given prior thereto to the aggrieved, his representative, and any other persons officially involved in the grievance.

Within a specified time after hearing the appeal, the superintendent shall communicate to the aggrieved and all other parties officially present at the hearing his written decision, which should include supporting reasons therefor.

LEVEL THREE

If the aggrieved does not accept the decision of the superintendent, he should so state in writing within a specified time period and may ask for Advisory Arbitration. Advisory Arbitration should be conducted by a three-man committee, one each appointed by the aggrieved and the superintendent and the third selected by the appointed two. Their decision shall be given in writing within a specified time period to the superintendent, the aggrieved, and other persons officially involved.

LEVEL FOUR

If neither the superintendent nor the aggrieved has been persuaded by the Advisory Arbitration Committee to alter his decision or grievance, the aggrieved may within a specified time period appeal to the school board. The appeal shall be in writing and copies provided to board members, superintendent, and all persons officially involved. The aggrieved shall be granted an open hearing if he requests it. The board within a specified time period shall deliver its written decision to the aggrieved with copies sent to the superintendent and all persons officially involved in the grievance.

LEVEL FIVE

Policy may include level five, which provides for binding arbitration.

A MODEL
Grievance Policy and Procedures
for an
Oregon School District

THE POLICY
(Placed in the Written Policies of the School District)

The Board of Directors of the _____School District No._____recognizes the need to provide for the orderly resolution of any grievance arising out of a purported violation, interpretation, or inappropriate application of school district policies or administrative rules and regulations. Any school employee shall have the right of access to the grievance procedures adopted by this school district.

The Board guarantees that there shall be no reprisals against any employee utilizing the grievance procedures, or a part of interest thereto, by the board or any employee of the school district.

The written procedures for this policy are printed in Appendix_____of this policy, and printed copies of the grievance procedures made available to all employees of the_____School District.

Appendix

Grievance Procedure

for the

_____School District

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Appendix

Grievance Procedures
For
An Oregon School District

Section I DEFINITIONS

A. "Grievance" shall mean a complaint by an employee or group of employees:
(1) that there has been to him (or them) a violation or inequitable application of any provisions of the contract, or
(2) that he (or they) has (have) been treated inequitably by reason of any act or condition which is contrary to established school board policy or practice governing or affecting employees.

B. "Aggrieved" is the person or persons who has the grievance and is presenting the complaint, also referred to as the complainant.

C. The "Party in Interest" is either the person or persons making the complaint or the person or persons against whom the complaint is made.

D. "Consultant" is the one who advises either party in interest.

E. "Representative" is the one who may speak for and/or advise a party in interest.

F. "Immediate Supervisor" is the one who has direct administrative or supervisory responsibilities over the aggrieved in the area of grievance as stated in school board policy.

G. "Advisory Arbitration" - A decision, advisory to the parties in interest compiled by a committee of arbiters. This advisory arbitration committee can be compared to an investigating committee.

H. "Binding Arbitration" is a decision by a committee of arbiters which requires compliance by both parties in interest.

I "Days" - The term "days" when used in this article shall, except were otherwise indicated, mean the aggrieved's working days.

J. "Persons Officially Involved" means the superintendent, his representative and/or consultant, the aggrieved, his representative and/or consultant, and witnesses.

K. Association - Any organization representing either the certificated or the classified personnel which has been elected by a majority vote of the respective employees.

Section II GENERAL PROCEDURES

A. These procedures should be processed as rapidly as possible, the number of days indicated for settlement or appeal at each level should be considered a maximum. The time limits can be extended by written mutual consent of the parties involved at any level of the procedures.

B. All parties should attempt to complete the procedures by the end of the school year. The parties shall make good faith effort to shorten the number of days provided at the various steps in order to finish by the end of the school year and avoid, if possible, carrying the process into the summer vacation period or the following school year.

C. The school district recognizes the local employees associations' grievance committees.

D. All parties in interest have a right to consultants or representatives of his own choosing at each level of these grievance procedures, except arbitration.

E. There shall be no restraint, interference, discrimination, or reprisal exerted on any employee choosing to use these procedures for resolution of grievances.

F. Failure at any level of this procedure by the aggrieved to appeal a grievance to the next level within the specified time limits shall be deemed to be acceptance of the decision rendered at that level. Failure at any level of this procedure to communicate the decision in writing on a grievance within the specified time limits shall permit the aggrieved to proceed to the next level.

G. All documents, communications, and records of a grievance will be filed in the school district office separately from the personnel files. References to the records, such as a summary, should be placed in the appropriate personnel file(s).

H. Forms for processing grievances shall be prepared by the superintendent or his designated representative in cooperation with the Associations and will be printed and given appropriate distribution by the parties so as to facilitate operation of the grievance procedure.

I. If any member of an Association's Grievance Committee is a party in interest to any grievance, he should not serve as the Association's grievance representative in the processing of such grievance.

J. In the course of investigating any grievance, representatives of either party in interest who need to contact an employee or student in school, will contact the building supervisor of the building being visited and will state the purpose of the visit immediately upon arrival.

K. Every effort will be made by all parties to avoid interruption of classroom and/or any other school-sponsored activities.

L. Every effort will be made by all parties to avoid the unnecessary involvement of students in the grievance procedure.

M. All parties in interest will process grievances after the regular work day or at other times which do not interfere with assigned duties.

N. Each grievance shall have to be initiated within ten (10) days after the occurrence of the cause for the complaint; however, if the aggrieved did not become aware of the occurrence until a later date, then he must initiate action within the ten (10) days following his first knowledge of the cause, in failing to thus initiate action he may be considered to have no reasonable grievance.

O. Financial Responsibility: Each party shall pay any and all costs incurred by said party. Arbitration costs of the third arbitration shall be borne equally by both parties.

P. The grievance procedure will not be used while an aggrieved is under the jurisdiction of the courts or has resorted to the judicial process.

Section III LEVELS OF GRIEVANCE

Level One - Informal and Formal Grievance Level.

The aggreived will first discuss his grievance with his principal or immediate supervisor, either individually or through the school grievance representative, or accompanied by a representative, with the objective of resolving the matter informally.

If the aggrieved is not satisfied with the disposition of his grievance, he may file a written grievance with his immediate superior (who has administrative authority to act) within ten (10) days following the act or condition which is the basis of his complaint, or, if the aggrieved had no knowledge of said occurrence at the time of its happening, then within ten (10) days of the first such knowledge. This complaint shall set forth the grounds upon which the complaint is based and the reasons why the aggrieved considers the decision rendered is unacceptable. The immediate supervisor shall communicate his decision in writing within five (5) days to the aggrieved.

Within five (5) days of receipt of the decision rendered by the immediate supervisor, the aggrieved, if he is not satisfied with the decision of the immediate supervisor, may appeal in writing to the superintendent or the superintendent's representative, (who has the administrative authority by board policy to act) and in the matter of grievances shall be so designated by job description.

Level Two

Appeals to the superintendent or his representative shall be heard by the superintendent or his representative within ten (10) days of his receipt of the appeal. Written notice of the time and place of the hearing shall be given five (5) days prior thereto to the aggrieved, his representative, or any other persons officially involved in the grievance.

Attendance at the hearing of appeal shall be restricted to persons officially involved. Parties in interest may elect to call witnesses who shall appear individually at the hearing.

Within five (5) days of hearing the appeal, the superintendent or his representative shall communicate to the aggrieved and all other parties officially present at the hearing his written decision, which shall include supporting reasons therefor.

If the superintendent's representative hears the appeal at this level, and if the aggrieved does not find the decision of the superintendent's representative acceptable, the aggrieved may appeal within five (5) days to the superintendent.

The superintendent must hear the appeal within ten (10) days after receiving it. The superintendent must provide the parties in interest written notice of the time and place at least five (5) days prior to the hearing.

Attendance at this hearing of appeal shall be limited to persons officially involved. Parties in interest may elect to call witnesses who shall appear individually at the hearing.

Within five (5) days of hearing the appeal the superintendent shall communicate to the aggrieved and all other parties present at the hearing his written decision which shall include supporting reasons therefor.

If the aggrieved is not satisfied with the decision of the superintendent he may file a written appeal with the superintendent within five (5) days from the receipt of the superintendent's decision. The appeal shall state the aggrieved's reasons for appealing the decision of the superintendent and request appeal to Level Three, Advisory Arbitration.

Level Three

A three-member advisory arbitration committee shall be composed of one person appointed by the superintendent, one person appointed by the aggrieved, and one person appointed by the two members already appointed.

Within ten (10) days of the receipt of the appeal, the committee shall investigate all decisions and reasons therefor and all other data deemed necessary by the committee, and a written advisory recommendation will be presented to the superintendent and the aggrieved containing the reasons therefor.

Within five (5) days the superintendent will review the recommendation of the committee and render a written decision to the aggrieved.

If the Superintendent's decision following the advisory committee's recommendation is unsatisfactory to the aggrieved, he may appeal in writing to the school board of directors within five (5) days of receipt of the superintendent's decision at Level Three.

Level Four

Within five (5) days of the receipt of the appeal, the school district board of directors will notify all official parties of a hearing to be held within ten (10) days of the receipt of the appeal. The board of directors shall hear arguments of the superintendent and the aggrieved. At the request of the aggrieved the hearing before the board shall be a public hearing.

Within five (5) days following the hearing, the school board of directors shall render a decision in writing to all official parties.

If the aggrieved is not satisfied with the school board's decision, he may appeal to Level Five.

Level Five

Within five (5) days of receipt of the appeal the superintendent shall notify the American Arbitration Association or a mutually acceptable arbiter and arrange for arbitration of the case. The decision of the arbiter shall be binding upon all parties involved.

Appendix

Flow Chart for_____School District
Grievance Procedures